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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,978	07/25/2001	Gabriel Bege-Dov	10014078-1	8178

7590 12/12/2002

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EXAMINER

MILLER, BENA B

ART UNIT

PAPER NUMBER

3712

DATE MAILED: 12/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/915,978

Applicant(s)

BEGED-DOV, GABRIEL

Examiner

Bena Miller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5 is/are allowed.
- 6) ☒ Claim(s) 6-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims and 11-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In several instances in the claims, the claims appear to recite further structural limitations on or are dependent on elements or features which are not claimed. For example only, lines 1 and 2 of claim 11 indicate that what is claimed is a gyroscopic stabilized throwable implement adapted to include a recordable medium when rotated about an axis of rotation. Therefore it is presumed that the recordable medium is not positively claimed. Claim 12 further recites limitation on the recordable medium. For the purpose of this Office Action, elements not specifically claimed in combination with the claimed implement and its parts is considered as only intended uses of the claimed implement.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6, 7, 9 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Wyatt.

Regarding claims 6 and 12, Wyatt teaches in figures 1-8 a gyroscopically stabilized throwable implement comprising a disk-shaped body (fig.1), a depression (fig.2), a plurality of flexible fingers (fig.1) and a means for removably attaching the recordable medium (fig.1) configured as claimed.

Regarding claim 9, Wyatt further teaches a crooked portion (26) configured as claimed.

Regarding claim 7, Wyatt further teaches a depression disposed in the first surface (fig.2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wyatt in view of Nomula.

Wyatt teaches in figures 1-8 the invention substantially as claimed. However, Wyatt fails to teach a lip edge. Regarding claims 8 and 11, Nomula teaches in figures 1-11b a package used to protect and display a CD (compact disc) having a lower rigid sheet 14 is used to support the CD. Sheet 14 has a lip edge to interlock the CD (col. 2,

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lines 62-66, note: see marked copy of figure 8). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a lip edge as taught by Nomula in the implement of Wyatt for the purpose of preventing the CD from removing when the implement is thrown.

Wyatt further fails to teach a ridge portion. Nomula teaches a ridge portion 21 of a raised hub 20 having a diameter larger than a central opening 0 so when hub 20 is depressed, an elastic deformation of hub 20 and inner ledge 22 is caused and the diameter of portion 21 is reduced allowing the CD to be removed (col. 3, paragraph 7 – col. 4, line 8). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a ridge portion as taught by Nomula to the implement of Wyatt for the purpose of removing the CD.

Allowable Subject Matter

Claims 1-5 are allowed.

Response to Arguments

Applicant's arguments filed 09/26/02 have been fully considered but they are not persuasive. In response to applicant's remarks that Wyatt fails to teach a disk-shaped body having an axis of rotation, and having at least a first surface and second surface configured to provide aerodynamic when thrown and gyroscopic stability when free rotating about the axis. The examiner disagrees. Wyatt teaches that a disk shape body and the disk of Wyatt do have an axis of rotation. Once the disk is thrown will provide some type of aerodynamic lift and gyroscopic stability when rotating. Therefore, Wyatt teaches the limitations of the claimed invention. Since Wyatt teaches the limitations of

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the claimed invention. The combination of Wyatt and Nomula teaches the claimed elements of claims 8, 10 and 11.

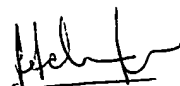
Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 703.305.0643. The examiner can normally be reached on Monday-Friday.

bbm
December 6, 2002


Bena Miller
Examiner